

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.696 of 1996

Present: Hon'ble Mr. D. Purkayastha, Judicial Member

Hon'ble Mr. B. P. Singh, Administrative Member

Arun Bhattacharyya, S/O of Sri Santosh Bhattacharyya, working as Chargeman 'B' at Mason/MR Shop, Carriage and Wagon Works, Eastern Railway, Liluah, residing at 93 Shyambazar Street, P.O. Hatkhola, Calcutta-700 005

.... Applicant

VS

1. Ministry of Railways, service through the General Manager, Eastern Railway, 17, Netaji Subhas Road, Calcutta-700 001

2. Chief Personnel Officer, Eastern Railway, 17, Netaji Subhas Road, Calcutta-700 001

3. Chief Works Manager, Carriage and Wagon Works, Eastern Railway, P.O. Liluah, Dist. Howrah

4. Workshop Personnel Officer, Carriage and Wagon Works, Eastern Railway, P.O. Liluah, Dist. Howrah.

5. Chief Works Manager, Eastern Railway, Jamalpur, Dist. Mongyr (Bihar),

6. Workshop Personnel Officer, Eastern Railway, Jamalpur, Dist. Mongyr, (Bihar)

... Respondents

For the Applicant : Mr. A. K. Basu, counsel

For the Respondents: Mr. C. Samaddar, counsel

Heard on 11.1.99 & 12.1.99 : : Date of order : 18-02-1999

O R D E R

D. Purkayastha, JM

The grievance of the applicant in short is that on being selected by the Railway Recruitment Board (RRB for short) for the post of Apprentice Mechanics (Dip) Mech. in the scale of Rs.1320-1550/- against one of the existing vacancies in the Workshop subject to satisfactory verification of his character and antecedents and fulfillment of other pre-appointment formalities, as per extant rules, he was appointed as Apprentice

by a letter dated 10.8.88 to undergo training for two years at Jamalpur Railway Workshop, Eastern Railway for regular appointment. But prior to joining at Jamalpur Workshop he applied to the Chief Personnel Officer, Calcutta directly on 17.8.1988 for his posting at Liluah Workshop instead of Jamalpur Workshop so that he could look after his parents at Calcutta. But no reply has been given to that representation and ultimately the applicant joined at Jamalpur Workshop on 5.11.88 for completion of two years training for regular appointment. Thereafter he again applied for transfer at Liluah on 22.12.88 (Annexure/ A4). Accordingly the applicant was transferred to Principal Technical School, Kanchapara for the residual course of training along with three others by a letter dated 9.3.89 (Annexure/A5). Accordingly the Training-in-charge of Basic Training Centre, Jamalpur released the applicant for joining at Kancharapara treating his appointment there as on 5.11.88, which is evident from Annexure/A-7 to the application, but the respondens issued a fresh appointment letter appointing him again as Apprentice Mechanic for training at Kancharapara for two years. ~~and accordingly~~ ^{say} The applicant reported for duty to the Chief Personnel Officer, Liluah on 27.3.89. Thereafter he was surprised to find that his date of appointment as Apprentice was treated as on 27.3.89 i.e. joining was shown from the date, when he had joined at Liluah Workshop on transfer from Jamalpur Workshop vide letters dated 26.2.89 and 24.3.91 (Annexure/A9 collectively) in stead of 5.11.88. Feeling aggrieved by the said erroneous recording of the date of appointment he preferred an appeal to the Workshop Personnel Officer, Liluah on 11.4.93 for correction of the date of appointment as on 5.11.88 instead of 27.3.89 (Annexure/A10 to the application). Accordingly the Chief Works Manager, Liluah by a letter dated 14.5.93 (Annexure/A11) intimated to the applicant that his date of appointment as 27.3.89 has been correctly done as he had come on transfer to Liluah at his own request thereby,

his date of absorption as Chargeman 'B' at Liluah on 28.3.91 could not be altered and the applicant thereafter made a prayer to the authority to consider the matter but to no effect. Since seniority in the cadre of chargeman 'B' was adversely affected for the reason stated, he has filed this application for a direction upon the respondents to correct the seniority of the applicant as Chargeman 'B' by treating the date of appointment as on 5.11.88 instead of 27.3.89 and by treating his training period from 5.11.88 to 5.11.90 and to call the applicant in the suitability test for Chargeman 'A' as a consequential relief after correcting the proper seniority.

2. The respondents filed written reply denying the claim of the applicant. The case of the respondents in short, is that being empaneled by the RRB for the post of Apprentice Mechanic, the applicant was sent for training to Eastern Railway's Workshop at Jamalpur and the applicant joined at Jamalpur for training on 5.11.88. After joining at Jamalpur, the applicant applied for his transfer from Jamalpur to Liluah Workshop. At his own request by a letter marked Annexure/A4 to the application he has been transferred and accordingly the applicant was released from Jamalpur along with others with the instruction to report to LWM/Liluah for undergoing training under PTS/Kanchrapara and being released from Jamalpur, the applicant was appointed as Apprentice Mechanics in Liluah for training of two years vide office order dated 15.12.88, Annexure/A3 to the application. On successful completion of the training at Kanchrapara Workshop, the applicant was appointed on regular basis as Temporary Chargeman 'B' in the scale Rs.1400-2300/- (RP) on pay of Rs.1400/p.m. with effect from 28.3.91 vide letter dated 26.3.89 (Annexure/A9) after taking into consideration his date of appointment as Apprentice Mechanics in Liluah as on 27.3.89. Since the applicant has been transferred from Jamalpur to Liluah on his own request as per his application dated 22.8.88

(Annexure/A2 to the original application) and joined at Liluah on 27.3.89, the applicant cannot be allowed the date 5.11.88 as his initial engagement at Liluah inasmuch as, the applicant was appointed as Apprentice Mechanics in Liluah on 27.3.89 and his training was arranged for two years taking his transfer as fresh entrant at Liluah. Thereby he is not entitled to get the benefit of appointment at Jamalpur as Apprentice from 5.11.88 for seniority in the cadre of Chargeman 'B'. Hence the application is devoid of merit and is liable to be dismissed.

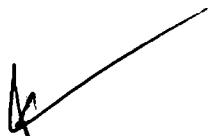
3. Mr. Basu, learned advocate appearing on behalf of the applicant submits that the applicant's seniority as Chargeman 'B' had been adversely affected due to change of his date of appointment as Apprentice from 5.11.88 to 27.3.89 on the basis of the fresh appointment letter dated 15.12.88 (Annexure/A3). According to learned advocate, Mr. Basu, the applicant was sent to Kancharapara Workshop for residual training after having been appointed as Apprentice vide letter dated 6.5.88 (Annexure/A) for training at Jamalpur. The learned advocate, Mr. Basu has relied on the letters dated 9.3.89 (Annexure/A5) and the letters marked 'A/6' to the application where it is mentioned that the applicant was directed to attend PTS/KPA for the residual course of training alongwith three others staff of LLH as Apprentice Mechanic for their training under PTS/KPA and he submits that the expression of the words 'residual course' of training clearly indicates that the period of training at Jamalpur with effect from 5.11.88 ought to have been taken into account for the purpose of appointment on regular basis as Chargeman 'B'. Having not done so, he has been prejudiced as respondents appointed the applicant on regular basis with effect from 28.3.91 on completion of the training of two years at Kancharapara Workshop with effect from 27.3.89 on the basis of the second letter of appointment dated 15.12.88 (Annexure/A3). Thereby his seniority in the cadre of Chargeman 'B' is required to be recasted on the basis of the

date of appointment with effect from 5.11.88 for promotion to the post of Chargeman 'A' in the Department.

4. Mr. Samaddar, learned advocate appearing on behalf of the respondents contended that as per provision of Rule 303 of the Indian Railway Establishment Manual, Vol.I the applicant's seniority was rightly fixed in the cadre of Chargeman 'B' on the basis of merit list prepared by the Authority on completion of training for two years at Kancharapara with effect from 27.3.89. The applicant joined at Kancharapara Workshop for training as per his own request and he completed the training at Kancharapara Workshop on 27.3.91 and he has been appointed as Chargeman 'B' with effect from 28.3.91(Annexure/A9). So, in view of the provision of the Rule 303 of the Indian Railway Establishment Manual, Vol.I the applicant's seniority cannot be determined on the basis of the date of appointment and thereby application is devoid of merit and is liable to dismissed. #5. In view of the divergent arguments advanced by the learned advocates of both the parties and in order to resolve the disputes between the two parties we would like to refer to the provision of Rule 303 of the I.R.M. Vol.I which runs as follows:

"(a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent course for any reason whatsoever and those who pass the examination in subsequent chances, will rank junior to those who had passed the examination in earlier courses."

On a perusal of the said provision of the Rule 303 regarding determination of the seniority of the Railway servant on selection for Apprentice for regular appointment it is revealed that seniority in the relevant grade is to be determined in the order of merit obtained at the examination held at the conclusion of the training period. So passing of the examination after conclusion of the period of training for two years is a condition precedent for appointment on regular basis. The said Rule 303



does not confer any right upon the applicant for determining seniority on the basis of the date of appointment as Apprentice. It remains admitted fact from both sides that the applicant completed training of two years at Kanchrapar Workshop for regular appointment on 27.3.91. Besides, on a perusal of the said Rule 303 it is clear that the seniority in grade of Chargeman 'B' depends on the merit list maintained at the examination on completion of the training of two years either in the Workshop at Jamalpur or in the Wrokshop at Kancharapara. Such examination is a condition precedent for regular appointment in the Railway service. So, admittedly the applicant could not pass examination before 26.3.91 on completion of training though in a letter dated 9.3.89 (Annexure/A5 to the application) it is stated that the applicant had been released from Jamalpur Workshop for residual traianing at Kancharapara on the basis of the appointment dated 5.11.88. Thereby it is clear that seniority of the applicant was determined on the basis of merit list obtained in the examination after completion of training and not on the basis of the date of appointment as per Rule 303 of the I.R.E.M. Vol.I. In view of the aforesaid circumstances we are of the view that the applicant cannot claim seniorityin the cadre of Chargeman 'B' on the basis of the initial date of joining on 5.11.88.

6. In view of our discussion made above we do not find any merit in the application and so, it is liable to be dismissed and hence we dismiss it without passing any order as to costs.

B. P. Singh
(B. P. Singh) 18/4/99

MEMBER (A)

D. Purkayastha
(D. Purkayastha) 18/4/99

MEMBER (J)